



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1996

Mr. Richard J. Ybarra
Open Records Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR96-0243

Dear Mr. Ybarra:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38142.

The Crime Victims' Compensation Division of the Office of the Attorney General (the "CVC") received a request for information relating to law enforcement records. The CVC, on behalf of the Port Lavaca Police Department, contends that portions of the requested information is excepted from required public disclosure under section 552.108 of the Government Code.

Section 552.108 provides that:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

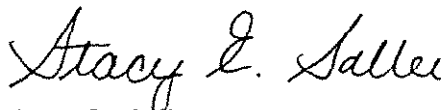
You inform us that the requested records relate to a pending criminal case. Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, any proper custodian of information which relates to the incident may invoke

section 552.108.¹ Open Records Decision Nos. 474 (1987), 372 (1983). Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 3-4 (listing factual information available to public). We stress, however, that it is the type of information that is determinative, not the location of the information on the literal "first page" of an offense report.

While the CVC may withhold that information not specifically deemed public by the *Houston Chronicle Publishing Co.* case, information previously released to the public may not be withheld from any requestor. See Open Records Decision Nos. 490 (1988) (governmental body may not practice selective disclosure), 464 (1987), 463 (1987). But see Open Records Decision No. 490 (1988) (protection for information deemed confidential by law is not ordinarily waived through "selective disclosure"). One of the documents you seek to withhold is a two page letter from the Port Lavaca Chief of Police to a private victim assistance coordinator which states that the coordinator is being sent the "public release information" on certain offense reports and the synopsis of each incident "per Opens Records regulations." This letter and any other information sent to the coordinator, or any other member of the public, must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/LBC/ch

Ref: ID# 38142

Enclosures: Submitted documents

¹We note that the CVC has statutory authority to receive law enforcement information. Code Crim. Proc. art. 56.38(d).

cc: Mr. Charles A. Hood
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(w/o enclosures)